

Office of
The City Attorney
City of San Diego

MEMORANDUM
MS 59

(619) 533-5800

DATE: December 15, 2008
TO: Sabrina Curtin, Docket Coordinator
FROM: Keith Phillips, Deputy City Attorney
SUBJECT: *John E. Soto, et al. v. City of San Diego, et al.*

Attached please find Resolution R-2009-313 setting forth the approval of the City Council in Closed Session on September 16, 2008. The vote taken in Open Session shall be the official vote.

Pursuant to the requirements, it is appropriate for this Resolution to be placed on the next available Council docket for Council adoption confirming the Council's action in Closed Session. It is therefore requested that it be calendared for the next available docket.

Attachment

000235

REQUEST FOR COUNCIL ACTION

CITY OF SAN DIEGO

1. CERTIFICATE NUMBER
(FOR AUDITOR'S USE) 103
AC29004: 01/27

TO:
CITY ATTORNEY

2. FROM (ORIGINATING DEPARTMENT):
CITY ATTORNEY

October 24, 2008

4. SUBJECT:

**SETTLEMENT OF BODILY INJURY CLAIMS OF LUZ SOTO & KELSEY SOTO (A MINOR).
RISK MANAGEMENT FILE #: AX07-0110-0468 & AX07-0110-0470**

5. PRIMARY CONTACT (NAME, PHONE & MAIL STA.)

Keith Phillips x-66695 MS-59

6. SECONDARY CONTACT (NAME, PHONE & MAIL STA.)

Charles Hopper x-36555 MS 51-B

7. CHECK BOX IF REPORT TO COUNCIL IS ATTACHED ☐

8. COMPLETE FOR ACCOUNTING PURPOSES

| | | | |
|----------------|--------------|--|--|
| FUND | 81140 | | |
| DEPT. | 81140 | | |
| ORGANIZATION | 3501 | | |
| OBJECT ACCOUNT | 4821 | | |
| JOB ORDER | 081141 | | |
| C.I.P. NUMBER | | | |
| AMOUNT | \$110,000.00 | | |

9. ADDITIONAL INFORMATION / ESTIMATED COST:

\$ 110,000.00 – Total Settlement

10. ROUTING AND APPROVALS

| ROUTE (#) | APPROVING AUTHORITY | APPROVAL SIGNATURE | DATE SIGNED | ROUTE (#) | APPROVING AUTHORITY | APPROVAL SIGNATURE | DATE SIGNED |
|-----------|------------------------|--------------------|-------------|--|------------------------|--------------------|-------------|
| 1 | ORIGINATING DEPARTMENT | <i>[Signature]</i> | 10/29/08 | 8 | DEPUTY CHIEF | | |
| 2 | POLICE | <i>[Signature]</i> | 11/07/08 | 9 | CFO | <i>[Signature]</i> | 12/4/08 |
| 3 | COMPTROLLER | <i>[Signature]</i> | 11/2/08 | 10 | CITY ATTORNEY | | |
| 4 | LIAISON OFFICE | <i>[Signature]</i> | 11/14/08 | 11 | ORIGINATING DEPARTMENT | <i>[Signature]</i> | 10/29/08 |
| 5 | FINANCIAL MANAGEMENT | <i>[Signature]</i> | 11/18/08 | DOCKET COORD: <i>[Signature]</i> COUNCIL LIAISON: <i>[Signature]</i> | | | |
| 6 | RISK MANAGEMENT | <i>[Signature]</i> | 10/31/08 | COUNCIL PRESIDENT <i>[Signature]</i> <input type="checkbox"/> SPOB <input checked="" type="checkbox"/> CONSENT <input type="checkbox"/> ADOPTION | | | |
| 7 | | | | COUNCIL DATE: 1.27.09 | | | |

11. PREPARATION OF:

☒ RESOLUTION(S)

☐ ORDINANCE(S)

☐ AGREEMENT(S)

☐ DEED(S)

1. Authorizing the Mayor to pay the sum of \$110,000 in settlement of each and every claim against the City, its agents and employees, resulting from the Bodily Injury Claims of LUZ SOTO & KELSEY SOTO (A MINOR).
2. Authorizing the City Comptroller to issue two checks made payable to LUZ ANGELICA SOTO & AUBREY D. BOYD ATTORNEY AT LAW in the amount of \$55,000 and a second check made payable to YESENIA BERNAL, GUARDIAN AD LITEM for KELSEY N. SOTO, A MINOR CHILD, and their ATTORNEY AUBREY D. BOYD in the amount of \$55,000.
3. Authorizing the expenditure of \$110,000 from Public Liability fund 81140.

11A. STAFF RECOMMENDATIONS:

Approve the resolution

12. SPECIAL CONDITIONS:

COUNCIL DISTRICT(S): N/A

COMMUNITY AREA(S): NONE

ENVIRONMENTAL IMPACT: NONE

HOUSING IMPACT: This activity is not a project and therefore exempt from CEQA pursuant to the State Guidelines Section 15060(c) (3).

OTHER ISSUES: NONE

EXECUTIVE SUMMARY SHEET
CITY OF SAN DIEGO

DATE ISSUED: October 24, 2008 REPORT NO:
ATTENTION: Council President and City Council
ORIGINATING DEPARTMENT: Risk Management
SUBJECT: Settlement of Bodily Injury Claims of Luz Soto & Kelsey
Soto (A Minor)
City File #: AX07-0110-0468 & AX07-0110-0470
COUNCIL DISTRICT(S): N/A
CONTACT/PHONE NUMBER: Keith Phillips (619)236-6695 MS-59

REQUESTED ACTION: Authorizing the Mayor to pay the sum of \$110,000 in settlement of each and every claim against the City, its agents and employees, resulting from the Bodily Injury Claims of LUZ SOTO & KELSEY SOTO (A MINOR).

STAFF RECOMMENDATION: Approve the resolution.

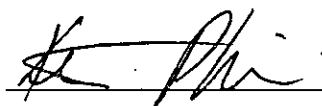
EXECUTIVE SUMMARY: The proposed settlement would resolve all claims arising from a vehicle accident that occurred on March 21, 2006.

FISCAL CONSIDERATIONS: Settlement will be paid from the Public Liability Fund 81140.

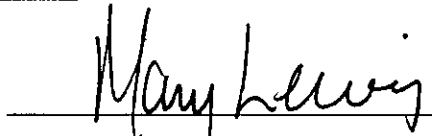
PREVIOUS COUNCIL and/or COMMITTEE ACTION: This item was considered in closed session on September 16, 2008, the City Council approved the settlement amount of \$110,000. City Council voted 8 to 0 with no members absent. The motion was made by Councilmember Hueso with a second by Councilmember Faulconer.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A



Originating Department



Chief Financial Officer

000239

The City of San Diego
CERTIFICATE OF CITY AUDITOR AND COMPTROLLER

CERTIFICATE OF UNALLOTTED BALANCE

ORIGINATING

AC

2900433

DEPT.

NO.:

045

I HEREBY CERTIFY that the money required for the allotment of funds for the purpose set forth in the foregoing resolution is available in the Treasury, or is anticipated to come into the Treasury, and is otherwise unallotted.

Amount: _____ Fund: _____

Purpose: _____

Date: _____ By: _____

AUDITOR AND COMPTROLLER'S DEPARTMENT

| ACCOUNTING DATA | | | | | | | | | | |
|-----------------|-------|------|------|------|---------|-----------|-------------------|-------------|----------|--------|
| ACCTG. LINE | CY PY | FUND | DEPT | ORG. | ACCOUNT | JOB ORDER | OPERATION ACCOUNT | BENF/ EQUIP | FACILITY | AMOUNT |
| | | | | | | | | | | |
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| | | | | | | | | | | |
| TOTAL AMOUNT | | | | | | | | | | |

FUND OVERRIDE ☐

CERTIFICATION OF UNENCUMBERED BALANCE

I HEREBY CERTIFY that the indebtedness and obligation to be incurred by the contract or agreement authorized by the hereto attached resolution, can be incurred without the violation of any of the provisions of the Charter of the City of San Diego; and I do hereby further certify, in conformity with the requirements of the Charter of the City of San Diego, that sufficient moneys have been appropriated for the purpose of said contract, that sufficient moneys to meet the obligations of said contract are actually in the Treasury, or are anticipated to come into the Treasury, to the credit of the appropriation from which the same are to be drawn, and that the said money now actually in the Treasury, together with the moneys anticipated to come into the Treasury, to the credit of said appropriation, are otherwise unencumbered.

Not to Exceed: \$110,000.00

Vendor: Luz Angelica Soto & Aubrey D. Boyd Attorney at Law (\$55,000); Yesenia Bernal (see attached for complete vendor name)(\$55,000)

Purpose: Authorize the Mayor to pay the sum of \$110,000 in settlement of each and every claim against the City, resulting from the Bodily Injury Claims of Luz Soto & Kelsey Soto (A Minor). Authorize the City Comptroller to issue two checks for \$55,000 each made payable to the attached named vendors. Authorize the expenditure from the Public Liability Fund.

Date: December 3, 2008 By: *Sam Nallat* 12/3/08

AUDITOR AND COMPTROLLER'S DEPARTMENT

| ACCOUNTING DATA | | | | | | | | | | |
|-----------------|-------|-------|-------|------|---------|-----------|-------------------|-------------|----------|--------------|
| ACCTG. LINE | CY PY | FUND | DEPT | ORG. | ACCOUNT | JOB ORDER | OPERATION ACCOUNT | BENF/ EQUIP | FACILITY | AMOUNT |
| 001 | 0 | 81140 | 81140 | 3501 | 4821 | 081141 | | | | \$110,000.00 |
| | | | | | | | | | | |
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| | | | | | | | | | | |
| | | | | | | | | | | |
| TOTAL AMOUNT | | | | | | | | | | \$110,000.00 |

AC-361 (REV 2-92)

FUND OVERRIDE ☐

AC 2900433

RESOLUTION NUMBER R-_____

DATE OF FINAL PASSAGE _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO
AUTHORIZING THE SETTLEMENT AGREEMENT BETWEEN
LUZ ANGELICA SOTO AND KELSEY N. SOTO AND THE CITY
OF SAN DIEGO; DAVID F. HIGHSMITH IN THE AMOUNT OF
ONE HUNDRED TEN THOUSAND DOLLARS

WHEREAS, in Closed Session on September 16, 2008, by motion of Councilmember Ben Hueso and second by Councilmember Kevin Faulconer, the City Council, by the following Vote: Yeas, 8; Nays, None, approved the following motion:


To approve the mediated settlement agreement of each and every claim against the City of San Diego, its agents and employees, resulting from the personal injury claim in *John E. Soto, Luz Angelica Soto and Kelsey N. Soto, v. City of San Diego; David F. Highsmith.*

BE IT RESOLVED, that the City Auditor and Comptroller be and is hereby authorized to issue a check in the sum of \$110,000 made payable to Luz Angelica Soto and Kelsey N. Soto, a minor child, by and through her guardian ad litem, Yesenia Bernal, Law Offices of Aubrey D. Boyd, in full settlement of the lawsuit and of all claims.

BE IT FURTHER RESOLVED, that the City Council is hereby authorized to pay the sum of \$110,000 from the Public Liability Fund 81140.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By



Keith Phillips
Deputy City Attorney

KP:my
09/15/2008
Or.Dept: Risk
R-2009-313
Aud. Cert: 2900433

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor